

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 10-MJ-120(02) (AJB)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	<b>ORDER FOR DETENTION</b>
	)	
v.	)	
	)	
DEREK WILLIAM LOMBARD,	)	
	)	
Defendant.	)	

This matter came on before the Court on April 7, 2010, for a preliminary hearing and a hearing on the motion of the United States for an Order of Detention. The detention hearing was requested by the United States pursuant to 18 U.S.C. § 3142(f). The defendant was present and represented by Paul Engh and Stephen Smith. The United States was represented by Assistant U.S. Attorney Andrew Dunne.

The United States presented the testimony of Larry Wesby, Jr., a Special Agent with the Federal Bureau of Investigation. The Court also had before it the pretrial services report prepared by the U.S. Pretrial Services Office. Probable cause was found and the defendant was bound over for further proceedings by a United States Grand Jury.

With respect to the issue of detention, based upon the evidence presented, the arguments of counsel, and all files, records and proceedings herein, it is the conclusion of the Court that there has been a clear and convincing showing that no

condition or combination of conditions of release will reasonably assure the safety of the community or the appearance of the defendant at future court proceedings. Accordingly, the motion of the United States will be granted and an Order of Detention will be issued pursuant to 18 U.S.C. § 3142(e)

#### **FINDINGS OF FACT**

1. Defendant is charged by complaint with aiding and abetting a bank robbery, in violation of 18 U.S.C. §§ 2 and 2113(a). Pursuant to the terms of the applicable statute involved in this case, the offense carries a maximum sentence of twenty (20) years imprisonment.

2. According to the report of U.S. Pretrial Services, defendant has a substantial criminal history including violations for burglary, narcotics, theft and escape. Additionally, there is an active arrest warrant issued for the defendant from the state of Wisconsin for absconding from supervision in connection with a previous criminal proceeding.

#### **DISCUSSION**

Under 18 U.S.C. § 3142, pretrial detention may be ordered either upon a clear and convincing showing that release will result in a danger to the community or upon a showing by a preponderance of the evidence that release will result in a serious risk of flight. United States v. Abad, 350 F.3d 793, 797 (8th Cir. 2003); United States v. Sazenski, 806 F.2d 846, 848 (8th Cir. 1986).

The Court finds that a danger to the community and a serious risk of flight is evident from the nature of the instant criminal offense, the defendant's prior criminal record and the fact that there was an active warrant issued for the defendant for absconding from state supervision at the time of the instant criminal offense.

**CONCLUSION**

Based upon the evidence presented, the Court concludes that the United States has made a clear and convincing showing that no condition or combination of conditions of bond will reasonably ensure the safety of the community or the appearance of the defendant at future court proceedings. Accordingly,

IT IS HEREBY ORDERED that:

1. The motion of the United States for detention of the defendant is GRANTED;
2. Defendant is committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
3. Defendant shall be afforded reasonable opportunity to consult privately with his lawyer; and
4. Upon Order of the Court or request by the United States Attorney, the person in charge of the corrections facility in which the defendant is confined shall deliver him to the United States

Marshal for the purpose of appearance in connection with a court proceeding.

Dated: April 9, 2010

s/ Arthur J. Boylan  
ARTHUR J. BOYLAN  
United States Magistrate Judge